APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/760,137	01/16/2004	Yury Kalnitsky	3524/199	7187

29858 7590 03/20/2006	EXAMINER
BROWN, RAYSMAN, MILLSTEIN, FELDER & STEINER LLP 900 THIRD AVENUE NEW YORK, NY 10022	PATEL, CHIRAG R

ART UNIT	PAPER NUMBER
2141	

DATE MAILED: 03/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	10/760,137	KALNITSKY, YURY
	Examiner	Art Unit	
	Chirag R. Patel	2141	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 January 2006*.

2a)☒ This action is **FINAL.**   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2,4-9,11-20 and 23-30* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2,4-9,11-20 and 23-30* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

Response to Arguments

Applicant's arguments filed January 17, 2006 have been fully considered but they

are not persuasive. Applicant argues "The peering arrangements discussed in McCanne

et al. are between ISPs, and are not in the client network." Examiner notes the claim

limitations are broader than what the applicant is arguing. A discussion of the amended

claims is provided in the body of the rejection. Examiner acknowledges that claims 3,

10, and 21-22 are cancelled by the applicant.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by
another filed in the United States before the invention by the applicant for patent or (2) a patent
granted on an application for patent by another filed in the United States before the invention by the
applicant for patent, except that an international application filed under the treaty defined in section
351(a) shall have the effects for purposes of this subsection of an application filed in the United States
only if the international application designated the United States and was published under Article 21(2)
of such treaty in the English language.

Claims 1-3, 5-6, 8-13, and 18-30 are rejected under 35 U.S.C. 102(e) as being

anticipated by McCanne (US 2005/0010653).

As per claims 1 and 12, McCanne discloses a method for providing streamed

electronic content to a plurality of user terminals in a client network from at least one

remote electronic content source, the method comprising:

receiving requests from two or more user terminals in the client network for

streamed content from the at least one remote electronic content store, ([0160];

streamed content, ([Figure 2: items 12(1), 12(2), 12(3), 12(4)]; multiple user terminals,

[0029])

providing a streamed unicast transmission of the requested content from the at

least one content source for receipt by a client-side computer in the client network;

([0118])

receiving the streamed unicast transmission of the requested content in the

client-side computer , ([0084], [0106], the content routers form an intelligent network

that connects content injection points to all the edge servers within the content

backbone)

processing the received content in the client-side computer for distribution to the

requesting plurality of user terminals in the client network; and ([0084])

distributing the received and processed streamed content to each of the

requesting plurality of user termimals in the client network. ([0084])

As per claim 2, McCanne discloses the method of claim 1 wherein distributing the

received and processed streamed content comprises distributing the content to a

multicast group including each of the user terminals in the client network which has

provided a request for content by subscribing to the multicast group. ([0021])

As per claim 5, McCanne discloses the method of claim 1 comprising transmitting additional content from the at least one content source to the client-side computer in response to a request by at least one user terminal in the client network for content not currently being transmitted by the at least one content source to the client-side computer. ([0210])

As per claim 6, McCanne discloses the method of claim 5 wherein transmitting the additional content comprises transmitting the additional content in another unicast transmission. ([0106], [0108], [0118])

As per claim 8, McCanne discloses the method of claim 1 wherein processing the received content comprises converting content received in a unicast format into a multicast format suitable for distribution to subscribers of a multicast group. ([0021])

As per claim 9, McCanne discloses the method of claim 1 comprising monitoring streamed content and maintaining an amount of bandwidth suitable for servicing at least one application other than an application servicing the distributed content, being run by each of the requesting user terminals. ([0109],[0157], [0208])

As per claim 11, McCanne discloses the method of claim 1 wherein the content is transmitted across the internet. ([0094])

As per claim 13, McCanne discloses the method of claim 12 wherein the client-side computer comprises a listening socket for receiving and queuing content requests. ([0208])

As per claim 18, McCanne discloses the system of claim 12 wherein the wherein the client-side computer comprises a pseudo media player that converts content received in unicast format into a multicast format suitable for distribution to the multicast group. ([0021],[0200])

As per claim 19, McCanne discloses the system of claim 14 wherein the monitoring program includes software that ensures that a minimum amount of upstream bandwidth is preserved in a transmission path for accommodating application critical communications. ([0109],[0157], [0208])

As per claims 20 and 23, McCanne discloses a method for providing streamed electronic content to a plurality of user terminals in a client network from a remote electronic content source, the method comprising:

receiving requests from two or more user terminals in the client network for streamed content from the electronic content source; ([0160]; streamed content, [Figure 2: items 12(1), 12(2), 12(3), 12(4)]; multiple user terminals, [0029])

forming a multicast group comprising user terminals that have provided requests for the streamed content: ([0021])

providing a streamed unicast transmission of the requested content from the

content source for receipt by a client-side computer in the client network; ([0122])

receiving the streamed unicast transmission of the requested content in the

client-side computer, ([0103])

processing the-received content in the client-side computer server such that the

content is suitable for distribution to the multicast group; and ([0021],[0084])

distributing the received and processed content to each of the requesting user

terminals of the client network in the multicast group. ([0021], [0084]) and

monitoring the client-side computer server for potential quality of service

problems. ([0090], [0107])

As per claim 24, McCanne discloses the method of claim 23 wherein the

monitoring further comprises assessing the availability of other client-side computers.

([0090], [0107])

As per claim 25, McCanne discloses he method of claim 24 further comprising

replacing an inoperative client-side computer with a computer deemed available in the

assessing step to maintain a minimum quality of service level. ([0208])

As per claim 26, McCanne discloses the method of claim 24 further comprising

reassigning at least part of a workload of a client-side computer deemed overburdened

by fault detection software with a computer deemed available in the assessing step to

balance client-side computer workload. ([0090], [0107])

As per claim 27, McCanne discloses a system for providing streamed electronic

content to a plurality of user terminals in a client network from a remote electronic

content sources the system comprising:

a plurality of user terminals in a client network each including a display device;

([Figure 2: items 12(1), 12(2), 12(3), 12(4)]; multiple user terminals, [0029])

a content source which provides a streamed transmission in a unicast format of

content in response to the requests of two or more user terminals in the client network:

([0122])

a client-side computer in the client network which receives the streamed unicast

format transmission of requested content processes the streamed content into a

multicast format and distributes the processed multicast format content to the

requesting user terminals in the client network ([0021], [0084] ,[0103])

each of the plurality of terminals in the client network including software for

processing received streamed multicast format content into unicast format for display on

a respective display device. ([0021])

As per claim 28, McCanne disloses the system of claim 27, wherein each of the

plurality of terminals in the client network includes a local proxy which includes the

software. ([0200], [0226] in current art, an application like a Web browser or streaming

media player parses a URL into a server component and relative path component;

proxy is inherent to the web browser)

As per claim 29, McCanne discloses a system for providing electronic content to

a plurality of user terminals in a client network from a remote electronic content source.

the system comprising:

a plurality of user terminals in a client network; (([Figure 2: items 12(1), 12(2),

12(3), 12(4)]; multiple user terminals, [0029])

a content source which provides a streamed unicast transmission of content in

response to the requests of two or more user terminals in the client network's ([0122])

a client-side computer in the client network which receives the streamed unicast

transmission of requested content, processes the streamed content and distributes the

received and processed content to the requesting user terminals in the client network

([0103])

each of the plurality of terminals in the client network including a local proxy

which prepares the distributed streamed content for display at the respective user

terminal. ([0200], [0226] in current art, an application like a Web browser or streaming

media player parses a URL into a server component and relative path component;

proxy is inherent to the web browser)

As per claim 30, McCanne discloses a method for providing streamed electronic

content to a plurality of user terminals in a client network from a remote electronic

content source, the system comprising:

providing a streamed transmission in a unicast format of content from the remote

content source in response to the requests of two or more user terminals in the client

network; ([0122])

receiving the streamed unicast format transmission of requested content in a

client-side computer in the client network; (([0103])

possessing the streamed content into a multicast format in the client-side

computer; ([0021], [0084])

distributing the received and processed multicast format content to the

requesting user terminals in the client network; ([0021],[0084]

processing received streamed multicast format content into unicast format in the

respective user terminal for display at a respective terminal. ([0021])

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

Claims 4 and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable

over McCanne (US 2005/0010653) in view of McHale et al – hereinafter McHale (US

6,160,843)

As per claims 4 and 15, McCanne discloses the method of claim 1. McCanne et

al. fails to disclose terminating the content transmission when client-side server is not

distributing content to the plurality of users. McHale discloses terminating the content

transmission from the at least one content source to the client-side computer

when the client-side computer server is not distributing the content to any of the

requesting user terminals. (Col 18 lines 26-36) At the time the invention was made, it

would have been obvious to a person of ordinary skill in the art to terminate the content

transmission when client-side server is not distributing content to the plurality of users

in the disclosure of McCanne. The motivation for doing do would have been to

guarantee a level of service to a subscriber system. (Col 15 lines 28-45)

As per claim 14, McCanne discloses the system of claim 12 wherein the client-

side computer includes software causing the client-side computer to form a multicast

group including each of the user terminals in the client network which has

provided a request for content by subscribing to the multicast group. ([0021]) McCanne

fails to disclose a monitoring program to monitor whether subscribers are requesting the

content transmitted by the content source. McHale discloses the client-side computer

comprising a monitoring program to monitor whether subscribers are requesting the

content transmitted by the content source. (Col 18 lines 26-36) At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to disclose a monitoring program to monitor whether subscribers are requesting the content transmitted by the content source in the disclosure of McCanne. The motivation for doing do would have been to guarantee a level of service to a subscriber system. (Col 15 lines 28-45)

As per claim 16, McCanne/Mchale et al. disclose the system of claim 14, and McCanne discloses wherein the monitoring program includes software that requests transmission of an additional content stream if a subscriber within the multicast group is requesting content not currently being transmitted by the content source. ([0210])

Claims 7 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCanne (US 2005/0010653) in view of Khan et al. – hereinafter Khan (US 2002/0143951).

As per claims 7 and 17, McCanne discloses the method of claim 1. McCanne fails to disclose converting multicast format content into unicast format content for transmission to the client-side computer. Khan et al. discloses wherein the providing the streamed unicast transmission comprises converting multicast format content into unicast format content for transmission to the client-side computer. ([0022]) At the time

the invention was made, it would have been obvious to a person of ordinary skill in the

art to convert a multicast format into a unicast format for transmission to the client-side

computer in the disclosure of McCanne. The motivation would have been to allow a

unicast client to receive a multicast transmission. ([0022]).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Chirag R. Patel whose telephone number is (571)272-

7966. The examiner can normally be reached on Monday to Friday from 7:30AM to

4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia, can be reached on (571) 272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pairdirect.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).